

ORIGINAL

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BY _____
 2012 AUG 17 AM 11:40
 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 LOS ANGELES

FILED

9 Attorneys for the
 10 UNITED STATES OF AMERICA

11
 12 UNITED STATES DISTRICT COURT
 13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 14 WESTERN DIVISION

16	UNITED STATES OF AMERICA and	)	NO. CV 09-5013 JFW (JEMx)
	STATE OF CALIFORNIA, <u>ex rel.</u>)	
17	[UNDER SEAL];	)	NOTICE OF [SEALED]; AND
		)	[PROPOSED] ORDER THEREON
18	Plaintiffs,)	
		)	[LODGED UNDER SEAL pursuant to
19	v.	)	the False Claims Act, 31 U.S.C.
		)	§ 3730(b)(2) and (3)]
20	[UNDER SEAL],)	
		)	[FILED OR LODGED CONCURRENTLY
21	Defendants.	)	HEREWITH, BUT DEEMED BY THE
		)	PARTIES TO BE FILED OR LODGED
22)	BEFORE THIS DOCUMENT: JOINT
)	NOTICE [SEALED]; NOTICE OF
23)	[SEALED]; [PROPOSED] ORDER
)	REGARDING [SEALED]

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16 UNITED STATES OF AMERICA and)	NO. CV 09-5013 JFW (JEMx)
STATE OF CALIFORNIA, <u>ex rel.</u>)	
17 [UNDER SEAL];	)	NOTICE OF [SEALED]; AND
	)	[PROPOSED] ORDER THEREON
18 Plaintiffs,)	
	)	[LODGED UNDER SEAL pursuant to
19 v.	)	the False Claims Act, 31 U.S.C.
	)	§ 3730(b)(2) and (3)]
20 [UNDER SEAL],)	
	)	[FILED OR LODGED CONCURRENTLY
21 Defendants.	)	HEREWITH, BUT DEEMED BY THE
	)	PARTIES TO BE FILED OR LODGED
22)	BEFORE THIS DOCUMENT: JOINT
23)	NOTICE [SEALED]; NOTICE OF
)	[SEALED]; [PROPOSED] ORDER
)	REGARDING [SEALED]

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 14 WESTERN DIVISION
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16	UNITED STATES OF AMERICA and)	NO. CV 09-5013 JFW (JEMx)
	STATE OF CALIFORNIA, <u>ex rel.</u>)	
17	JAMES M. SWOBEN,	)	NOTICE OF DISMISSAL OF ALL
		)	CLAIMS AGAINST DEFENDANTS SCAN
18	Plaintiffs,	)	HEALTH PLAN, SENIOR CARE ACTION
		)	NETWORK, AND SCAN GROUP PURSUANT
19	v.	)	TO SETTLEMENT AGREEMENT;
		)	CONSENTS OF THE UNITED STATES
20	SCAN HEALTH PLAN, a California	)	AND STATE OF CALIFORNIA
	corporation, fka SENIOR CARE	)	ATTORNEYS GENERAL THERETO; AND
21	ACTION NETWORK; SENIOR CARE	)	[PROPOSED] ORDER THEREON
	ACTION NETWORK, a business)	
22	entity, form unknown; SCAN	)	[LODGED UNDER SEAL pursuant to
	GROUP, a California corporation;	)	the False Claims Act, 31 U.S.C.
23	[NAMES OF REMAINING DEFENDANTS	)	§ 3730(b)(2) and (3)]
	SEALED],)	
24		)	[FILED OR LODGED CONCURRENTLY
	Defendants.	)	HEREWITH, BUT DEEMED BY THE
25		)	PARTIES TO BE FILED OR LODGED
		)	BEFORE THIS DOCUMENT: JOINT
26		)	NOTICE BY THE UNITED STATES OF
		)	AMERICA AND THE STATE OF
27		)	CALIFORNIA OF ELECTION TO
		)	INTERVENE IN PART; NOTICE OF
28		)	LODGING REDACTED RELATOR'S THIRD

1 AMENDED COMPLAINT; [PROPOSED]
2 ORDER REGARDING PARTIAL
3 INTERVENTION AND PARTIAL
UNSEALING]

4 Pursuant to Rule 41(a) of the Federal Rules of Civil
5 Procedure, and subject to and in order to effectuate the settlement
6 agreement among:

7 the Relator James M. Swoben ("Relator"); Defendants SCAN
8 Health Plan, Senior Care Action Network, and SCAN Group
9 (collectively, "the SCAN Defendants"); and the United
10 States of America and the State of California
11 (collectively, "the Governments"),

12 the Relator hereby, upon the Order of the Court herein:

13 Dismisses all claims for relief and causes of action filed in
14 the above-captioned action against Defendants SCAN HEALTH PLAN,
15 SENIOR CARE ACTION NETWORK, and SCAN GROUP, said dismissal being:
16 (a) with prejudice as to the Relator; (b) without prejudice to the
17 United States of America as to the Ninth Claim for Relief of the
18 Third Amended Complaint; and (c) with prejudice to the Governments
19 as to all other claims for relief and causes of action in all
20 Complaints filed in the above-captioned action against Defendants
21 SCAN HEALTH PLAN, SENIOR CARE ACTION NETWORK, and SCAN GROUP, to
22 the extent that those claims for relief and causes of action are,
23 or purport to be, filed pursuant to the False Claims Act, 31 U.S.C.
24 § 3729 *et seq.*, and the State False Claims Act, California
25 Government Code § 12650 *et seq.*,

26 *Except that* the Relator does not dismiss the Relator's claim
27 for a relator's share to be paid by the Governments, pursuant to 31
28 U.S.C. § 3730(d)(1) and California Government Code § 12652(g)(2).

1 As to this claim, the Relator respectfully requests that the Court
2 retain jurisdiction to determine the relator's share that the
3 Relator should obtain pursuant to 31 U.S.C. § 3730(d)(1) and
4 California Government Code § 12652(g)(2), and

5 *Except that* the Relator does not dismiss the Relator's claim
6 for payment by any and all of the said defendants to the Relator of
7 expenses, fees, and costs, pursuant to 31 U.S.C. § 3730(d)(1) and
8 California Government Code § 12652(g)(8). As to this claim, the
9 Relator respectfully requests that the Court retain jurisdiction to
10 determine the appropriate expenses, fees, and costs that the
11 Relator should obtain pursuant to 31 U.S.C. § 3730(d)(1) and
12 California Government Code § 12652(g)(8).

13 Respectfully submitted,

14 DATED: _____, 2012

WILLIAM K. HANAGAMI, ESQ.
The Hanagami Law Firm

15
16 ABRAM J. ZINBERG, ESQ.
Attorney at Law

17 [See Next Page]
18 WILLIAM K. HANAGAMI, ESQ.
Attorneys for Relator
19 JAMES M. SWOBEN
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1 As to this claim, the Relator respectfully requests that the Court
2 retain jurisdiction to determine the relator's share that the
3 Relator should obtain pursuant to 31 U.S.C. § 3730(d)(1) and
4 California Government Code § 12652(g)(2), and

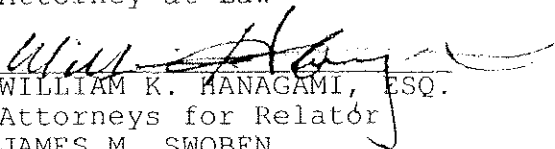
5 *Except that* the Relator does not dismiss the Relator's claim
6 for payment by any and all of the said defendants to the Relator of
7 expenses, fees, and costs, pursuant to 31 U.S.C. § 3730(d)(1) and
8 California Government Code § 12652(g)(8). As to this claim, the
9 Relator respectfully requests that the Court retain jurisdiction to
10 determine the appropriate expenses, fees, and costs that the
11 Relator should obtain pursuant to 31 U.S.C. § 3730(d)(1) and
12 California Government Code § 12652(g)(8).

13 Respectfully submitted,

14 DATED: July 31, 2012

WILLIAM K. HANAGAMI, ESQ.
The Hanagami Law Firm

15
16 ABRAM J. ZINBERG, ESQ.
Attorney at Law

17 
18 WILLIAM K. HANAGAMI, ESQ.
Attorneys for Relator
19 JAMES M. SWOBEN
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CONSENT OF THE ATTORNEY GENERAL
OF THE UNITED STATES OF AMERICA

Pursuant to 31 U.S.C. § 3730(b)(1), the Attorney General of the United States of America, by and through the undersigned, consents to the foregoing dismissal. The reason for the consent of the Attorney General is that the dismissal is pursuant to a settlement that is fair, adequate, and reasonable.

Respectfully submitted,

DATED: August 15, 2012

ANDRÉ BIROTTE JR.
United States Attorney
LEON W. WEIDMAN
Chief, Civil Division
WENDY L. WEISS
Chief, Civil Fraud Section
SUSAN R. HERSHMAN
Deputy Chief, Civil Fraud Section



JOHN E. LEE
Assistant United States Attorney

Attorneys for the
UNITED STATES OF AMERICA

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CONSENT OF THE ATTORNEY GENERAL
OF THE STATE OF CALIFORNIA

The Attorney General of the State of California, by and through the undersigned, consents to the foregoing dismissal. The reason for the consent of the Attorney General is that the dismissal is pursuant to a settlement that is fair, adequate, and reasonable.

Respectfully submitted,

DATED: 7/31, 2012

KAMALA D. HARRIS
Attorney General of California
BRIAN V. FRANKEL
Supervising Deputy Attorney General



LORA FOX MARTIN
Deputy Attorney General

Attorneys for the
STATE OF CALIFORNIA

IT IS SO ORDERED,

This 20th day of August, 2012.


UNITED STATES DISTRICT JUDGE

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CONSENT OF THE ATTORNEY GENERAL
OF THE STATE OF CALIFORNIA

The Attorney General of the State of California, by and through the undersigned, consents to the foregoing dismissal. The reason for the consent of the Attorney General is that the dismissal is pursuant to a settlement that is fair, adequate, and reasonable.

Respectfully submitted,

DATED: _____, 2012

KAMALA D. HARRIS
Attorney General of California
BRIAN V. FRANKEL
Supervising Deputy Attorney General

LORA FOX MARTIN
Deputy Attorney General

Attorneys for the
STATE OF CALIFORNIA

IT IS SO ORDERED,

This _____ day of _____, 2012.

UNITED STATES DISTRICT JUDGE

1 PROOF OF SERVICE BY MAIL

2 I am over the age of 18 and not a party to the within action.
3 I am employed by the Office of United States Attorney, Central
4 District of California. My business address is 300 North Los
5 Angeles Street, Suite 7516, Los Angeles, California 90012.

6 On August 17, 2012, I served the following documents:

- 7 JOINT NOTICE BY THE UNITED STATES OF AMERICA AND THE STATE
8 OF CALIFORNIA OF ELECTION TO INTERVENE IN PART;
9 ORDER REGARDING PARTIAL INTERVENTION AND PARTIAL
10 UNSEALING;
11 NOTICE OF LODGING REDACTED RELATOR'S THIRD AMENDED
12 COMPLAINT;
13 NOTICE OF DISMISSAL OF ALL CLAIMS AGAINST DEFENDANTS SCAN
14 HEALTH PLAN, SENIOR CARE ACTION NETWORK, AND SCAN GROUP
15 PURSUANT TO SETTLEMENT AGREEMENT; CONSENTS OF THE UNITED
16 STATES AND STATE OF CALIFORNIA ATTORNEYS GENERAL THERETO;
17 AND [PROPOSED] ORDER THEREON

18 upon each person or entity named below by enclosing a copy in an
19 envelope addressed as shown below and placing the envelope for
20 collection and mailing on the date and at the place shown below
21 following our ordinary office practices. I am readily familiar with
22 the practice of this office for collection and processing
23 correspondence for mailing. On the same day that correspondence is
24 placed for collection and mailing, it is deposited in the ordinary
25 course of business with the United States Postal Service in a sealed
26 envelope with postage fully prepaid.

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Date of mailing: August 17, 2012.

Place of mailing: Los Angeles, California.

Person(s) and/or Entity(ies) to whom mailed:

See attached service list.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on August 17, 2012 at Los Angeles, California.



ANGELA M. FIORE

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SERVICE LIST

William K. Hanagami,
The Hanagami Law Firm
21700 Oxnard Street, Suite 1150
Woodland Hills, CA 91367-7572

Abram J. Zinberg
412 Olive Avenue, Suite 528
Huntington Beach, CA 92648

Lora Fox Martin
Deputy Attorney General
Department of Justice
California Attorney General's Office
Bureau of Medi-Cal Fraud and Elder Abuse
1455 Frazee Rd., Suite 315
San Diego, CA 92108